

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Fence Rail Gap, LLC)
	Dist. 18, Map 95, Control Map 83, Parcel 45.26) Blount County
	Residential Property)
	Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$177,500	\$ -0-	\$177,500	\$44,375

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 26, 2007 in Maryville, Tennessee. In attendance at the hearing were Gordon E. Wright, the appellant, Mike Morton, Blount County Property Assessor, and his Chief Deputy, Barry Mathes.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved five (5) acre tract located on Fencerail Gap Road in Walland, Tennessee.

The parties stipulated subject property should be valued at \$148,800 if it is determined that the State Board of Equalization has jurisdiction over this appeal. The jurisdictional issue arises from the fact the taxpayer filed a direct appeal with the State Board of Equalization without first appealing to the Blount County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer has the right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e).

The taxpayer testified that he purchased subject property on March 30, 2006. According to Mr. Wright, he did not become aware of the disputed appraisal until receiving the tax bill on or about September 25, 2006. Mr. Wright stated that he subsequently contacted Mr. Morton and ultimately filed an appeal directly with the State Board of Equalization.

The administrative judge finds that Blount County underwent a countywide reappraisal effective January 1, 2006. The administrative judge finds that the assessor properly sent the assessment change notice to the owner of record as of January 1, 2006 in accordance with Tenn. Code Ann. §§ 67-5-504 & 67-5-508(a)(3).

The administrative judge finds that although notice was properly sent to the owner of record, the Assessment Appeals Commission has found reasonable cause in similar circumstances. See *Vivian and Russ Ragsdale* (Davidson Co., Tax Year 2001) (August 13, 2003). Significantly, the administrative judge finds that the Commission's ruling was affirmed by Chancellor Dinkins in *Metropolitan Government of Nashville and Davidson County v. Ragsdale*, Davidson County, Chancery Court Case No. 04-1811-IV (April 18, 2006).

Based upon the foregoing, the administrative judge finds that the taxpayer established reasonable cause for not first appealing to the Blount County Board of Equalization. Accordingly, the administrative judge finds the State Board of Equalization has jurisdiction to adopt the stipulated value of \$148,800.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$148,800	\$ -0-	\$148,800	\$37,200

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of

Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 17th day of April, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Gordon E. & Janice T. Wright
Mike Morton, Assessor of Property